

REMARKS

This Amendment is being filed in response to the Office Action mailed April 28, 2009, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-3, 5-8 and 10 remain in this application, where claim 9 has been currently canceled without prejudice. Claim 1 is independent.

In the Office Action, claims 1-3 and 5-6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 and 8 of a copending Application No. 10/509,455 in view of U.S. Patent Application Publication No. 2001/0016242 in view of (Miyamoto). The Examiner indicated that a terminal disclaimer may be used to overcome this rejection. This rejection is also respectfully traversed. However, it is respectfully submitted that Applicants will consider filing a terminal disclaimer, if necessary in view of

any allowable claims, upon indication that the present application is otherwise allowable or includes allowable claims.

In the Office Action, 1-3 and 5-7 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent Application Publication No. 2001/0016242 (Miyamoto) in view of U.S. Patent No. 4,967,192 (Kaneko) and U.S. Patent No. 5,726,970 (Komma). Claims 8-10 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Miyamoto in view of Miyamoto, Kaneko, Komma and U.S. Patent Application Publication No. 2004/0064211 (Hirotsune). It is respectfully submitted that claims 2-3, 5-8 and 10 are patentable over Miyamoto, Kaneko, Komma and Hirotsune for at least the following reasons.

On page 10 of the Office Action, the Examiner correctly noted that Miyamoto, Kaneko and Komma do not disclose or suggest that "the effective reflection level of the stacks is at least 0.04 at a radiation beam wavelength of approximately 405 nm," as recited in claim 9. Paragraph [0234] of Hirotsune is cited in an attempt to remedy the deficiencies in Miyamoto, Kaneko and Komma.

It is respectfully submitted that Paragraph [0234] of Hirotsune specifically recites:

At a further shorter wavelength, the reflectance in the amorphous state and in the crystalline state has a minimum value in a range from 360 nm to 500 nm.
(Emphasis added)

It is respectfully submitted that disclosing the reflectance has a minimum value from 360 nm to 500nm does not disclose or suggest that "the effective reflection level of the stacks is at least 0.04 at a radiation beam wavelength of approximately 405 nm," as recited in claim 1. (Emphasis added)

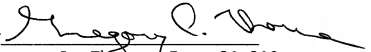
Accordingly, it is respectfully submitted that independent claim 1 should be allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-3, 5-8 and 10 should also be allowed at least based on their dependence from amended independent claim 1.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of

the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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